

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF LOUISIANA

IN RE:

CASE NO.

CHAPTER 13

DEBTOR(S)

Section A

Motion for Authority to Refinance Secured Debt

NOW INTO COURT comes _____, debtor(s) in the above numbered and captioned case (“Debtor(s)”), who with respect represent(s):

1.

On __[filing date]_____, Debtor(s) filed a voluntary petition for relief under Title 11, chapter 13 of the Bankruptcy Code.

2.

This Court has jurisdiction over the matters presented herein, which are core in nature, pursuant to 28 U.S.C. §157(b)(2)(A) and (D), 28 U.S.C. §1334, and 11 U.S.C. §364.

3.

On __[confirmation date]_____, this Court confirmed Debtor(s)’ plan of reorganization. The originally confirmed plan [was modified/ has not been modified] (the originally confirmed plan, together with all approved modifications, is collectively referred to as the “Plan”). Under the terms of the Plan, Debtor(s) are required to make __[number] of payments at \$_____ per month to the Trustee for ____ months. Debtor(s) also agreed to make payments, in the amount(s) of \$_____ per month, directly to their secured lender, ____name____.

4.

As of [date], Debtor(s)' Plan is in month [number] with [number] months remaining. Debtor(s) is [current/ not current] with payments to the Trustee.

5.

Debtor(s) desire to refinance their [home mortgage note/ vehicle note]. The original debt encumbering the [home/ vehicle] had a balance, as of the date of filing, of \$_____ payable in monthly notes of \$_____ at ____% interest per annum. The debt has [number] of months remaining until it is paid in full. In addition, [lender] was owed \$_____ in [pre/post] petition arrears. Through the Plan, [lender] has received \$_____ and has \$_____ remaining on this debt.

6.

Debtors have obtained a loan commitment for \$_____ payable over [number of] years at ____% interest from [new lender]. The loan will require monthly payments of \$_____.

7.

The proceeds of the loan will be used to satisfy normal costs of closing, including but not limited to, appraisal, title, abstract, credit reporting, recordation, notarial, documentation and other fees; escrows for unpaid property taxes or insurance, if applicable, [and [other]] estimated to be \$_____. A good faith lending statement itemizing these charges is attached hereto and incorporated herein as if copied *in extenso*. After satisfaction of closing costs, the loan proceeds will satisfy the claims of [lender] estimated to be in the amount of \$_____. [include entire balance]

8.

After satisfaction of the above amounts, the remaining proceeds will be [used for _____ or turned over to the Trustee for payment to _____]. *If to the Trustee:* This payment [shall/ shall not] constitute an additional distribution under the Plan. [if the payment will not be an additional distribution, explain how it is to be applied, i.e. which payments under the Plan it will satisfy.]

9.

The repayment of the loan will not affect Debtor(s) ability to make Plan payments in the future. The total amounts due each month for direct payments to the secured lender and Plan payments attributable to the secured lender's arrearage claim are \$_____.

If applicable:

Because this refinancing satisfies the secured claims of [lender], after the refinancing is complete, Debtors' monthly obligation will be reduced to \$_____. The difference in payments will be used ____ [how or if disposable income has decreased, explain how]. A request for modification of the Plan has been simultaneously filed with this Motion to effect this change.

[Note: New I & J schedules may be required if the payments under the new financing materially differ from those being paid at confirmation. Proof of new or additional income or expenses may also be required.]

OR

Because Debtor(s)' monthly note obligations will be reduced, Debtor's have more disposable income. Therefore, Plan payments will be increased to \$_____ resulting in [completion of the Plan in ____ months rather than the ____ estimated at confirmation and/or a greater distribution to unsecured, non-priority claimants]. A request for modification of the Plan as been simultaneously

filed with this Motion to effect this change.

OR

The payments under the Plan will remain the same but distributions to unsecured, non-priority claimants will increase to \$_____ because the arrears due [lender] are being satisfied through the refinancing. Debtor(s) request that the Court issue an order striking the claims of [lender] and payable under the Plan and authorizing the Trustee to cease distributions to [lender]. The order shall not be effective until Debtor(s) supply/supplies the Trustee with a closing statement reflecting full payment of the secured claims of [lender].

OR

The payments under the Plan will remain the same but completion of the Plan will be achieved in ____ months, rather than the approved term of ____ months. *If required:* A request for modification of the Plan as been simultaneously filed with this Motion to effect this change.

OR

The amounts forwarded to the Trustee will satisfy Debtor(s)' obligations under the Plan.

WHEREFORE, _____, debtor(s) in the above captioned proceedings, pray(s) that after notice, the expiration of all legal delays, and hearing, that this Motion to Refinance Debt be granted and Debtor(s)' be authorized to refinance their secured obligations owed to [lender] through a new loan from _____ in the amount of \$_____ payable over ____ years at an interest rate not to exceed ____%. The proceeds of the loan, after satisfying the costs of closing outlined in this Motion, will be used to satisfy the secured claims of [lender]. Thereafter, any residual amounts shall be used _____. Debtor(s) also request all other general and equitable relief.

Respectfully submitted,